

Notice of Allowability

Application No.

09/821,877

Examiner

Bao Qun Li

Applicant(s)

COLEMAN ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed on May 30, 2006.
2. ☒ The allowed claim(s) is/are 1, 5 and 6.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 09/30/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date July 21 & 31, 2006.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

B Li

EXAMINER'S AMENDMENT

It has been noted that the current application had been abandoned due to applicants inadvertent delayed the response on December 29, 2003.

The petition to revive the unintentional amendment was filed on April 19, 2004 alone with an amendment and response.

The petition of reviving the abandonment was granted on May 03, 2004.

On September 22, 2005, application filed an extension of time of current application and also inadvertently send the amendment and response that are not belonging to the current application to the office. Also inadvertently, said amendment and response were entered on September 22, 2005 into file of current application.

In order to establish a clear prosecution history on the record, the examiner had called the applicants to resubmit the right amendment and response to the current application to replace the previous amendment filed on September 22, 2005.

The correct amendment of current application has been filed and entered on May 30, 2006 that replace the amendment inadvertently entered into the file on September 22, 2005. Therefore, the amendment filed on September 22, 2005 should be ignored on the record.

Response to the current amendment

This is to acknowledge the amendment filed on May 30, 2006. Claims 1 and 5 have been amended. Claims 1-26 are pending. Claims 2-4 and 7-26 were withdrawn from the consideration. Claims 1, 5 and 6 are considered.

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Cheryl L Becker on July 21 & 31, 2006.

The application has been amended as follows:

Specification:

Please delete the description of Figure 4 in page 7, and substitute it with the following description --- Figure 4 represents the nucleotide sequence alignment of the mutated small

Art Unit: 1648

envelope protein gene of the isolated HBV ayw₂ mutant, i.e. the 1st DNA sequence of SEQ ID NO: 6 with that of wild type HBV ayw₂, i.e. the 2nd DNA sequence of SEQ ID NO: 7, and the translated amino acid sequence (SEQ ID NO: 8) of said mutated small envelope protein gene ---

Claims:

Claim 1 (current amended) In line 1 after "sequence" please delete rest of the claims, and insert --- the nucleic acid sequence of SEQ ID NO: 1. ---

Claim 6 (current amended) In line 1 before host cell, please delete "A" and insert --- An isolated ---

Please cancel claims 2-4, 7-26.

Claims 1 and 5-6 are allowed.

2. The following is an examiner's statement of reasons for allowance: No prior art teaches and suggests an isolated nucleotide sequence comprising the novel DNA sequence of SEQ ID NO: 1 that encodes a mutated HBsAg.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Qun Li whose telephone number is 571-272-0904. The examiner can normally be reached on 6:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1648

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Baoqun Li
07/31/2006

Bao Qun Li

BACQUN LI, MD
PATENT EXAMINER

07/31/2006